

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Freeman School District No. 358	)	File No. SLD-196527
Rockford, Washington	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Associations, Inc.	)	

**ORDER**

**Adopted: May 10, 2002**

**Released: May 13, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Freeman School District No. 358 (Freeman), Rockford, Washington, seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.<sup>1</sup> Freeman requests a waiver of the priority filing window deadline for Funding Year 3.<sup>2</sup> For the reasons set forth below, we deny Freeman's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding

<sup>1</sup> Letter from Jan Davis, Freeman School District No. 358, to Federal Communications Commission, filed June 15, 2001 (Waiver Request).

<sup>2</sup> See Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.501–54.503.

<sup>4</sup> 47 C.F.R. § 54.504(b).

requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup> The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.<sup>6</sup> The last day of the filing window for Funding Year 3 was January 19, 2000.<sup>7</sup>

3. Due to problems with SLD's computer system during the last day of the filing window of Funding Year 3, the Commission directed the Administrator to ensure that certain applications filed electronically after the filing window closed were considered as filed in a timely manner.<sup>8</sup> Specifically, in the *Year 3 Server Failure Order*, the Commission stated that applications would be granted a limited waiver to be considered as timely filed within the priority filing window if they met two criteria.<sup>9</sup> First, the applicants had to have started the electronic application process on or before January 19, 2000 and tried to complete their electronic applications on January 19, 2000.<sup>10</sup> In addition, the applicant had to have either completed the application on January 20, 2000, or the applicant "took steps to inform SLD ... of their inability to access SLD's Internet site to complete their applications" by the end of the day January 20, 2000.<sup>11</sup> In the latter case, applicants were given until July 21, 2000 to complete the applications.<sup>12</sup>

4. Freeman argues that it should be granted relief because it had trouble with the SLD website and completed its application on January 20, 2000.<sup>13</sup> Freeman claims that it tried to submit its FCC Form 471 on January 19, 2000, but it was not able to do so because of problems with the SLD server.<sup>14</sup> However, SLD's server log indicates that Freeman had not started the application before January 20, 2000.<sup>15</sup> Freeman has not provided any evidence to the contrary. Based upon the record before us, we conclude that the applicant does not meet the specific criteria of the *Year 3 Server Failure Order* because Freeman did not attempt to complete its

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<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c), 54.507(g).

<sup>7</sup> SLD web site, SLD Announces Availability of Year 3 Forms, (October 29, 1999) <<http://www.sl.universalservice.org/whatsnew/101999.asp#form>>.

<sup>8</sup> *In the Matter of Federal-State Joint Board on Universal Service, Year 3 Filing Window*, CC Docket No. 96-45, Order, 15 FCC Rcd 13932 (2000) (*Year 3 Server Failure Order*).

<sup>9</sup> *Year 3 Server Failure Order*, 15 FCC Rcd at 13935-13936, paras. 8, 9.

<sup>10</sup> *Id.*

<sup>11</sup> *Year 3 Server Failure Order*, 15 FCC Rcd at 13934-13935, paras. 8, 5.

<sup>12</sup> See, *Year 3 Server Failure Order*, 15 FCC Rcd at 13935, para. 9. (allows applicants to submit applications within thirty days of the release date of the Order) (released June 8, 2000).

<sup>13</sup> Waiver Request.

<sup>14</sup> *Id.*

<sup>15</sup> Universal Service Administrative Company, Schools and Libraries Division, Server Log, Freeman School District No. 358, November 7, 2001.

application on January 19, 2000, before the server crashed.<sup>16</sup>

5. A deviation from a general rule is not permitted unless there are special circumstances and the deviation would serve the public interest.<sup>17</sup> Freeman has not offered an additional explanation of why it was late in submitting the applications, other than its unsubstantiated claim that it was affected by the server failure. We therefore conclude that Freeman has not demonstrated special circumstances upon which to grant its Waiver Request.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Waiver Request filed by Freeman School District No. 358, Rockford, Washington, on June 15, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>16</sup> See, e.g., *Request for Waiver by Forest Municipal School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-197116, CC Docket Nos. 96-45 and 97-21, Order, DA 01-2527 (Com. Car. Bur. 2001), para. 6 (noting there was no evidence that the applicant began its online application before the end of January 19, 2000).

<sup>17</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).